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C O N F I D E N T I A L SECTION 01 OF 02 ABU DHABI 003436

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E.O. 12958: DECL: 08/05/2015
TAGS: [ETRD](#) [ECON](#) [EFIN](#) [TC](#)
SUBJECT: UAE MAKING PROGRESS ON FTA ISSUES OVER SUMMER

Classified By: Ambassador Michele J. Sison for reasons 1.4
(b & d).

11. (C) Summary: The UAEG continues to make progress on FTA issues over the summer months. The UAE Rules of Origin Committee announced a set of conditions that companies would need to comply with in order to have a good classified as "made in the UAE." According to MinFin's Saeed Al-Rukn, these rules were designed with the U.S.-UAE FTA negotiations in mind. Al-Rukn explained that the rules are not yet finalized and he would have more clarity in September. Abu Dhabi Investment Authority representatives told econchief that they were still concerned about several issues including federal-emirate jurisdiction, security of assets, taxation, and investor state dispute settlement. They remained confident, however, that these issues could be worked out if experts on both sides met to discuss them. End Summary.

Sheikh Abdullah Hears our Concerns

12. (C) During a July 24 meeting with Minister of Information, Sheikh Abdullah bin Zayed Al-Nahyan (AbZ), Ambassador briefly discussed the ongoing FTA negotiations and highlighted several issues for his attention. AbZ has been one of the senior UAEG leaders active on FTA issues. Ambassador stressed that the UAEG's interest in a "movement of persons" or visa chapter in the FTA was unacceptable to the USG. Sheikh Abdullah seemed to accept this. On the issue of rights of association and labor unions, and on the issue of Federal-Emirate jurisdictional breakdowns, Sheikh Abdullah

didn't comment, but took the information on board.

"Made in UAE" 40% Local Content Needed

13. (U) On July 24, the UAE press reported that the UAE Rules of Origin Committee had decided (pursuant to various FTA negotiations) on a set of conditions for classifying a product as a local product. The good needed to be locally obtained, or for goods made by imported materials, the product needed to be substantially transformed (i.e., there would be a change in the harmonized tariff code), and the value added in the UAE needed to be at least 40 percent. The press also reported that the Rules of Origin Committee had agreed on standardizing the forms needed to certify the local content rule.

14. (SBU) Econchief called Saeed Al-Rukn, Deputy Director of the Department of Industrial Development at the Ministry of Finance and Industry on July 24 to discuss the newspaper reports. Al-Rukn confirmed that the committee had based its decision on the U.S. FTA requirements, and confirmed that it would serve as the UAEG's model for future FTA negotiations. He stressed that the committee had consulted with UAE industry before making its decision and that the UAEG was trying to be fair to its "clients" (i.e., UAE industry) and with its negotiating partners. On August 2, Al-Rukn provided econchief with further details on the decision. He explained that the UAE wanted/needed to include indirect costs in the calculation of the 40 % UAE value added, which he understood could be problematic for the U.S. He said, however, that he thought that the U.S. would be interested in an FTA that was flexible enough to meet the needs of both parties. Al-Rukn concluded by noting that the UAEG was still meeting with the relevant actors on the proposed rules and that he hoped to have more clarity by early September as his colleagues returned from vacation.

15. (SBU) Al-Rukn also said that the UAE Ministry of Finance had gotten approval from Dr. Khirbash to create a software application and process for companies to register and submit their applications for rules of origin paperwork. He explained that this program would help the UAEG to track whether goods were substantially modified in the UAE and met the 40% value added requirement.

Lost in Translation

16. (C) Al-Rukn also highlighted some problems the UAE had had in translating the USG's draft text. He said that Ali Al-Baloushi, the head of the UAE's Copyright Department, had asked him to review part of a chapter dealing with licensing companies that produce optical media (CDs etc.). Al-Rukn said that the English language text was unobjectionable and provided that companies could not be established to make compact disks without receiving an appropriate license. The Arabic translation, however "prohibited" the UAEG from granting a company a license to make compact disks. Al-Rukn said that he had urged Al-Baloushi to show the texts to his legal advisor for comment. He noted that, in some cases, the UAEG's translators were not specialists and that they sometimes translated the text "word for word" rather than translating its meaning. (Note: This is the first specific example of a mis-translation in the Arabic text of the FTA that we have heard of. Negotiators should be aware, however, that communication difficulties can and will slow negotiations as the UAEG negotiators try to ensure that they fully understand the meaning of the negotiating documents.)

Emirate-Federal Jurisdiction still a Concern

17. (C) On July 26, two senior Abu Dhabi Investment Authority advisors (strictly protect) discussed progress on the investment and financial services chapters of the FTA with econchief. Both noted that ADIA remained concerned about Federal-Emirate jurisdictional issues, security of ADIA

assets in the U.S., tax issues, and the investor-state dispute mechanism. (Comment: ADIA is the investment arm -- and checkbook -- for the Emirate of Abu Dhabi. As the Emirate of Abu Dhabi largely funds the UAE federal government, ADIA is -- ultimately -- a source of funds for the UAEG. ADIA operates under a very restrictive need to know definition of security and "need to know" does not generally include the UAE federal government. End Comment.) The senior legal advisor explained that ADIA had had some excellent initial meetings in Washington during the May round to discuss several of these issues. He said that he had looked forward to going to Washington to continue those discussions, but that the Ministry of Finance had rejected that idea. (Note: According to MinFin A/US Khalid A-Bustani, the UAEG did not want a sub group negotiating, without the entire group present.) Due to the complexity of the issues (and to ADIA's general penchant for secrecy -- even from UAEG officials) he said ADIA was not prepared to discuss them in any detail over a videoconference. The legal advisor reiterated that he thought the issues could be resolved if a key group of people from each side discussed them in detail.

18. (C) The senior legal advisor explained that he thought the Ministry of Finance would present an updated (ADIA drafted) side letter on the issue of Federal-Emirate jurisdiction and that this letter reflected the UAEG's best understanding of how this issue was handled in past GATT/WTO discussions. (Comment: When the UAEG presents this side letter, USTR might want to suggest that a group of experts visit the U.S. to discuss specific concerns with all of the relevant USG agencies. The group could then report back to the negotiating teams, so this would not be a "negotiation.") SISON